



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[Docket Number USCG-2021-0774]

RIN 1625-AA08

### Special Local Regulation; Montlake Cut, Union Bay Reach, Seattle, Washington

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is establishing a special local regulation for a recurring marine event on Lake Washington on the first Saturday of May each year. This action is necessary to provide for the safety of life on the navigable waters during the marine event. This regulation restricts vessel traffic in the designated area during the event unless authorized by the Captain of the Port Sector Puget Sound or a designated representative.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0774 in the “SEARCH” box and click “SEARCH.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Chief Warrant Officer William Martinez, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206-217-6051, email [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

## **I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Puget Sound
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

## **II. Background Information and Regulatory History**

The Windermere Cup rowing event is held annually on the first Saturday in May. The Coast Guard received notification of the recurring marine event from the University of Washington. In response, on January 27, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Montlake Cut, Union Bay Reach, Seattle, Washington (87 FR 5430). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this Special Local Regulation. During the comment period that ended March 3, 2022, we received no comments.

## **III. Legal Authority and Need for Rule**

The Coast Guard is establishing a special local regulation for the Windermere Cup rowing event held annually on the first Saturday of May each year from 8 a.m. until 12:00 p.m. This event is held on the navigable waters of the Montlake Cut and Union Bay Reach between Portage Bay and Webster Point on Lake Washington in Seattle, WA.

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Coast Guard Thirteenth District Commander has determined that potential hazards associated with the marine event would pose a safety concern for anyone within the race area. The purpose of this rule is to protect the safety of all waterway users, including event participants and spectators, during the marine event.

## **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published January 27, 2022. There is one change in the regulatory text of this rule from the proposed rule in the NPRM. The enforcement period in the NPRM mistakenly indicated an end time of 12 a.m. This text now reads: until 12 p.m.

This rule establishes a new annually recurring special local regulation on the first Saturday of May from 8 a.m. until 12 p.m. The regulated area will cover all navigable waters from Montlake Cut and Union Bay Reach between Portage Bay and Webster Point on Lake Washington in Seattle, from the southern corner of University of Washington Oceanography pier. The duration of the regulated area is intended to ensure the safety of the public and participants during the rowing race. Non-participant vessels are not permitted to enter, transit through, anchor in, or remain within the regulated area without obtaining permission from the COTP or a designated representative.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the special local regulation. Vessel traffic would be able to safely transit around this special local regulation area which would impact a small-designated area of the Montlake Cut and Union Bay Reach. Moreover, the Coast Guard will issue a Broadcast Notice to

Mariners via VHF-FM marine channel 16 about the areas, and the rule will allow vessels to seek permission to enter the areas.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The

Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive

023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a regulated area lasting 4 hours that would prohibit persons or vessels from transiting the regulated area during the rowing event in Montlake Cut and Union Bay Reach between Portage Bay and Webster Point on Lake Washington in Seattle, WA. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### **PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS.**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.1311 to read as follows:

**§ 100.1311 Special Local Regulation; Montlake Cut, Lake Washington, Seattle, Washington**

(a) *Regulated area.* The regulations in this section apply to the following area: the navigable waters from Montlake Cut and Union Bay Reach between Portage Bay and Webster Point on Lake Washington in Seattle, from the southern corner of University of Washington Oceanography pier at 47° 38' 57"N, 122° 18' 45"W thence south to 47° 38' 46"N, 122° 18' 45"W, thence eastward to Webster Point Light 21 at 47° 38' 51"N, 122° 16' 33"W, thence south to the SR520 bridge at 47° 38' 37"N, 122° 16' 34"W. These coordinates are based on North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section—

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Puget Sound (COTP) in the enforcement of the regulations in this section.

*Participant* means all persons and vessels registered with the event sponsor as participants in the race. Spectator means any vessel in the vicinity of a marine event with the primary purpose of witnessing the event. Spectator vessels can observe the marine event from one of the designated spectator areas. One area is located north of Union Bay Reach in Union Bay. The other is located in the area between the state route 520 bridge and south of Union Bay Reach.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling the Sector Puget Sound Command Center at 206-217-6002. Those in the

regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners, announcement in the local notice to mariners, and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced annually from 8 a.m. until 12 p.m. on the first Saturday of May.

Dated: March 31, 2022.

O. M. Saboe,

CAPT, U.S. Coast Guard,

Commander, Thirteenth Coast Guard District, Acting.

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